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HONOURABLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO:23373 of 2000

DATED: 26-11-2007

Between:

G.S.R.Krishna Murthy and 10 others

..... PETITIONERS

AND

1. Government of A.P., rep.by its Secretary, Revenue Department, Secretariat, Hyderabad and 2 others.

.....RESPONDENTS

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ORDER:

This writ petition has been filed by the petitioners praying to direct the respondents to refund the excess stamp duty paid by the petitioners as per the judgment of this Court in W.P.No.10727 of 1993 dated 10-03-1999.

The petitioners stated that the Visakhapatnam Town Planning Trust constructed 115 L.I.G. and M.I.G. houses in Seethammavaripalem between 1965 and 1969. Some of the houses

were allotted to the petitioners on payment of 1/5th cost and the balance being recovered in 25 equal instalments under hire purchase agreement executed by the allottees. When the allottees including the petitioners have approached the respondents, after paying the balance of the instalments, for registration of the sale deeds the respondents insisted on payment of stamp duty on the then market value, namely, the market value in 1993. Aggrieved by the same the Town Planning Trust filed W.P.No.10727 of 1993 before this Court. The said writ petition was disposed of by order dated 10-03-1999 with the following direction:

> "directing the respondents to register the document on payment of stamp duty on the consideration mentioned in the Hire Purchase Agreement and on such payment of the stamp duty and presentation of documents, the respondents are directed to register the same within one week thereafter."

The appeal preferred by the respondents was dismissed by a Division Bench of this Court and the order of this Court dated 10-03-1999 has become final. Subsequently, the petitioners made representations to the 4th respondent requesting to refund the excess stamp duty collected in accordance with the judgment of this Court. The respondents were postponing the same under some pretext or the other by saying that unless there is a direction from the Honourable Court they cannot refund the excess stamp duty paid by them. Aggrieved by the same, the petitioners approached

this Court through this writ petition.

In the order dated 10-03-1999, in W.P.No.10727 of 1993, a learned Single Judge of this Court observed that a reading of Section 27 of the Stamp Act makes it clear that the stamp duty is payable only on the consideration mentioned in the instrument and as it is not the case of the respondents that the consideration mentioned in the hire purchase agreement is not fully and totally mentioned in the said agreement, they cannot demand the stamp duty on the market value as on the date of registration. The stamp duty is payable only on the consideration fully and truly set-forth in the instrument. Therefore, the respondents are directed to register the document on payment of the stamp duty on consideration mentioned in the hire purchase agreement. The judgment became final.

In the light of the above judgment, the excess amount paid by the petitioners is liable to be refunded.

In the result, the Writ Petition is allowed granting the relief as prayed for. No order as to costs.

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26th November, 2007

SKM